

### **AMENDMENTS TO THE DRAWINGS**

The drawing sheets attached in connection with the above-identified application containing Figure(s) 9(b-e), 10, 12, 13, 15, 16, 17 and 19 are being presented as a new formal drawing sheet or sheets to be substituted for the previously submitted drawing sheet or sheets. The drawing figures have been amended to add the SEQ ID NOs. Appended to this amendment is an annotated copy of the previous drawing sheet which has been marked to show changes presented in the replacement sheet of the drawing.

## REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and these remarks.

Claims 1, 4, 5, 6, 7, 8 and 9 are amended currently. Upon entry of this response, therefore, claims 1 and 4—9 will be pending.

Applicant acknowledges, with thanks, the examiner's withdrawal of the previous restriction requirement. Accompanying this response are (i) revised figures and (ii) an English translation of applicant's Japanese priority document. Also, (iii) claims 6 – 9 are revised to obviate the stated objection for improper multiple dependency.

Thus, applicant has addressed each matter raised in the action, aside from the art rejections detailed on pages 4 – 9. As to the latter, the stated rationale for the Section 102(a) rejection over GenBank accession No. AB127601 is inapposite in view of applicant's Section 119 date, perfected through the above-mentioned submission of a translated priority document. By the same token, the stated basis for the Section 102(b) rejection over U.S. patent No. 5,164,305 is vitiated by the replacement of "represented by," in amended claims 3 and 5, by the preposition -- of --. Accordingly, applicant submits that the pending anticipation rejections should be withdrawn.

Regarding the pending Section 103(a) rejections, the examiner contends that it would have been obvious, in light of Jaurin *et al.* (1982), to modify prior disclosures of a "TipA promoter," which she finds in each of the '305 patent and Takano *et al.* (1995), thereby to obtain a "mutated TipA gene promoter" essentially as prescribed in claims 1, 2, and 4 respectively. Without acquiescing to this reasoning and without prejudice or disclaimer, applicant has chosen to advance prosecution by incorporating the salient recitations of canceled claims 2 and 3 into claim 1.

Since the action does not reject claim 3 on obviousness grounds, it necessarily follows that amended claim 1 likewise should be deemed to meet the requirements of Section 103(a).

Accordingly, withdrawal is requested of the pending obviousness rejection against claim 1 and dependent claim 4.

Applicant submits that the present application is in condition for allowance. An early indication to this effect is requested. Examiner Joike is invited to contact the undersigned directly, should she feel that any point requires further consideration.

The Commissioner also is authorized to charge any additional fees, which may be required under 37 CFR §§ 1.16-1.17, and to credit any overpayment to Deposit Account No. 19-0741. Should no proper payment accompany this response, then the Commissioner is authorized to charge the unpaid amount to the same deposit account. If any extension is needed for timely acceptance of submitted papers, applicant hereby petitions for such extension under 37 CFR §1.136 and authorizes payment of the relevant fee(s) from the deposit account.

Respectfully submitted,

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Fig. 9b

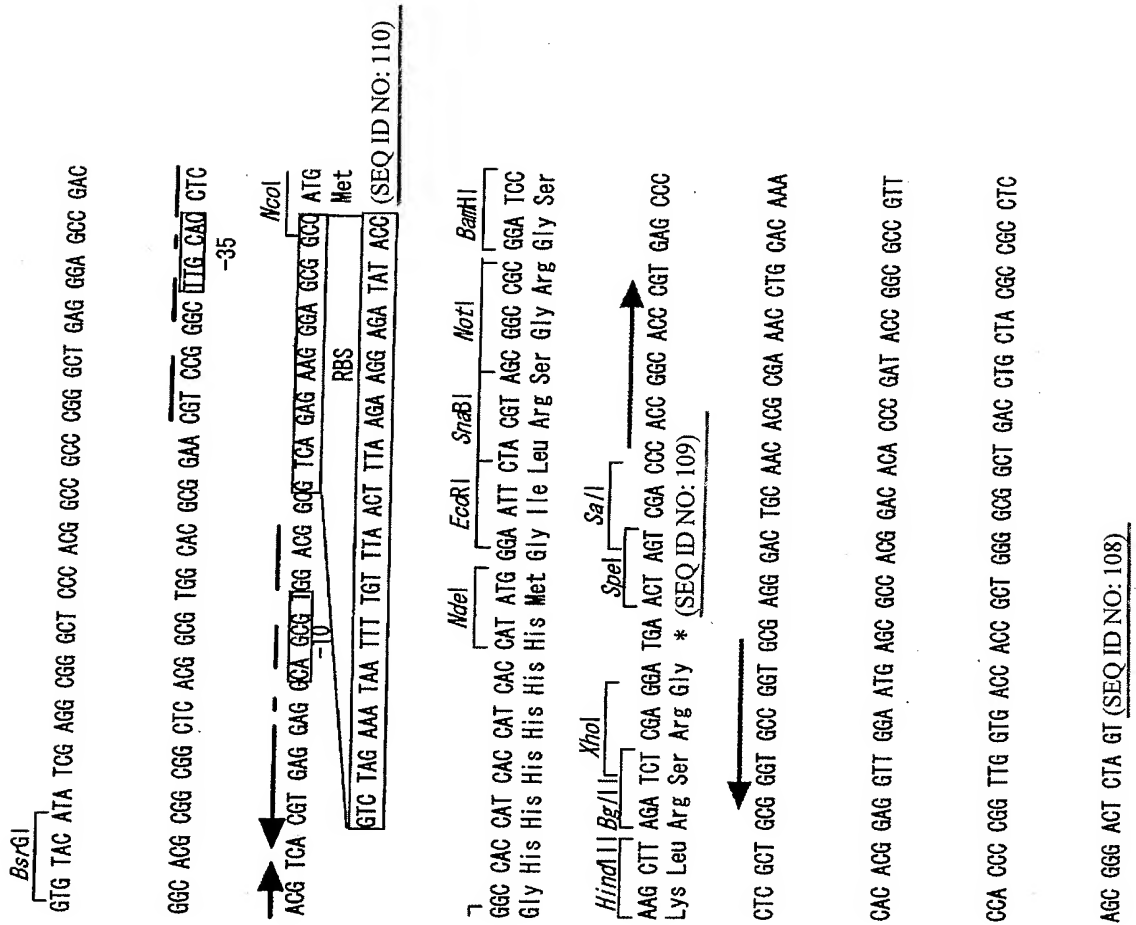


Fig. 9c

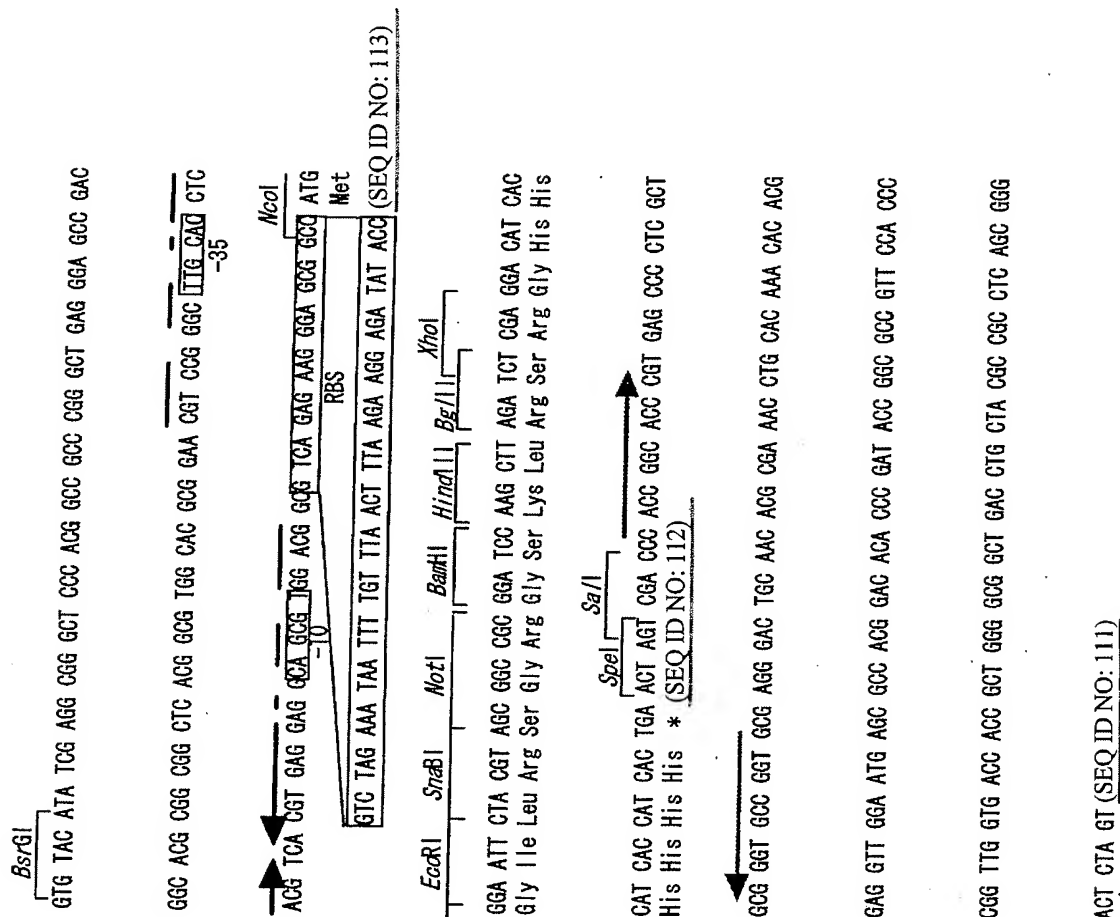


Fig. 9d

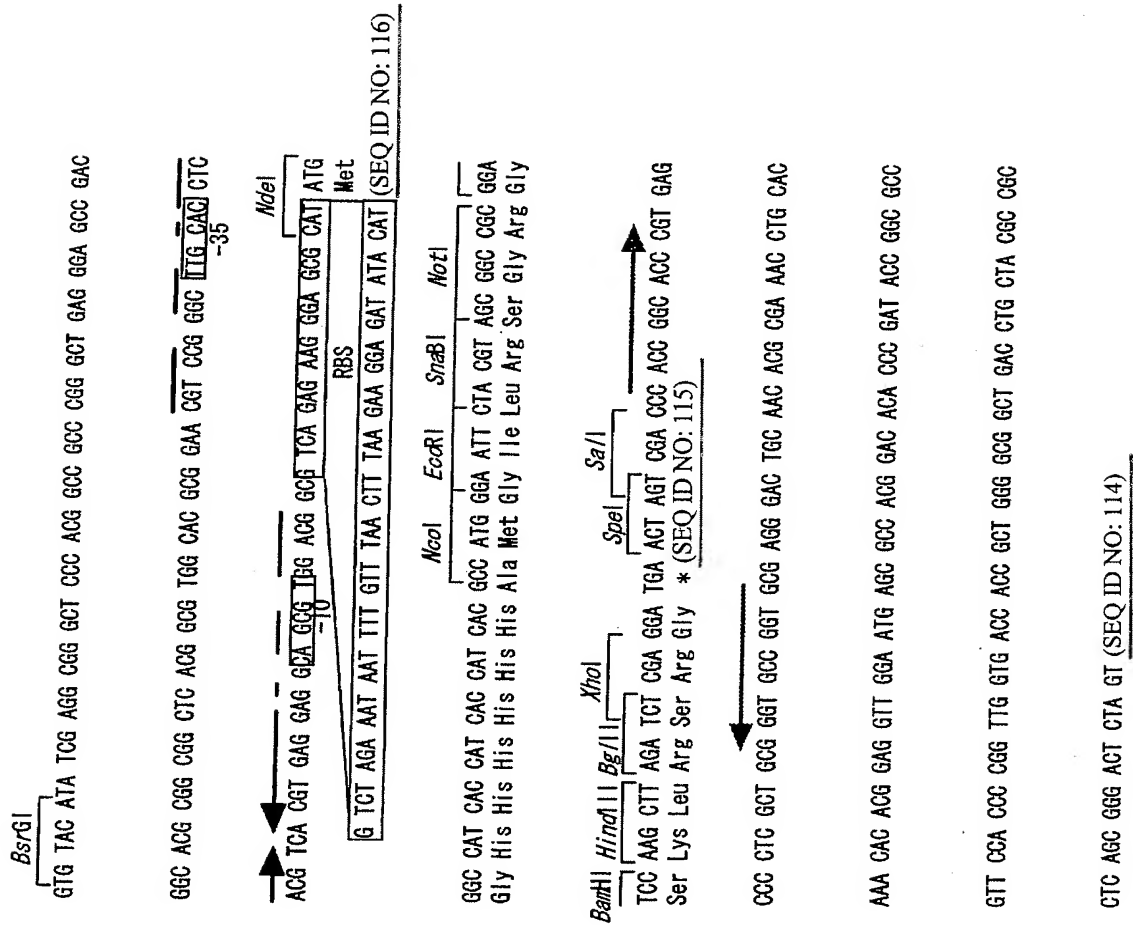


Fig. 9c

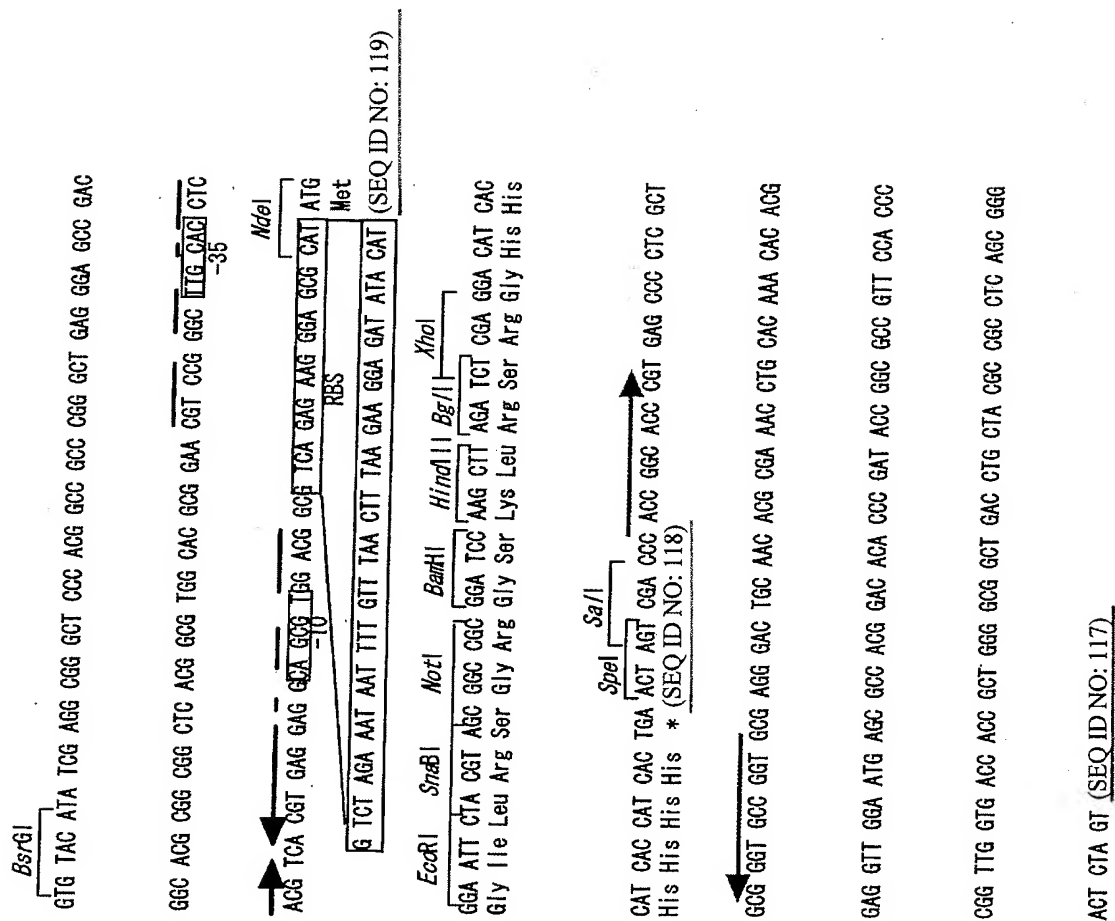


Fig. 10

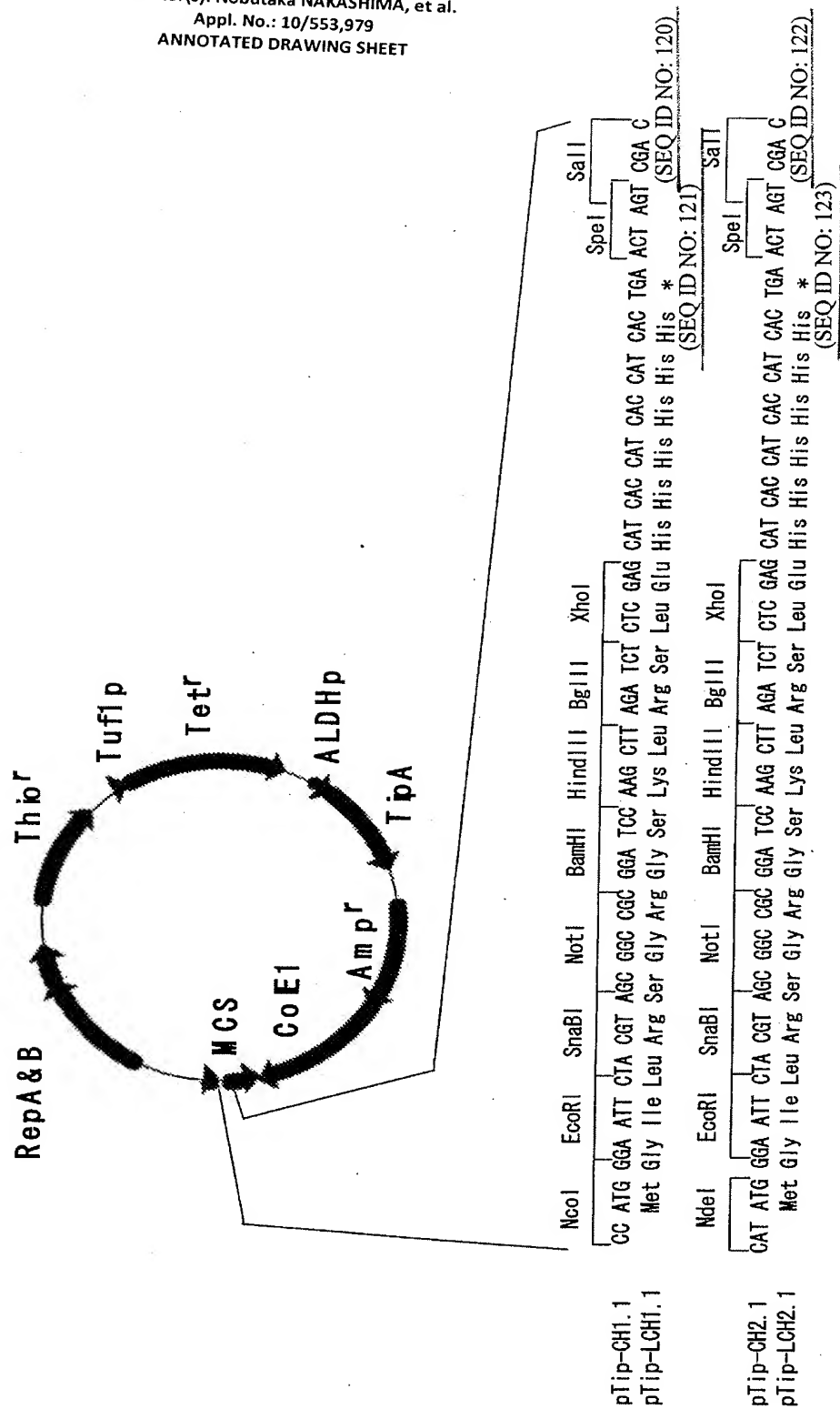




Fig. 12

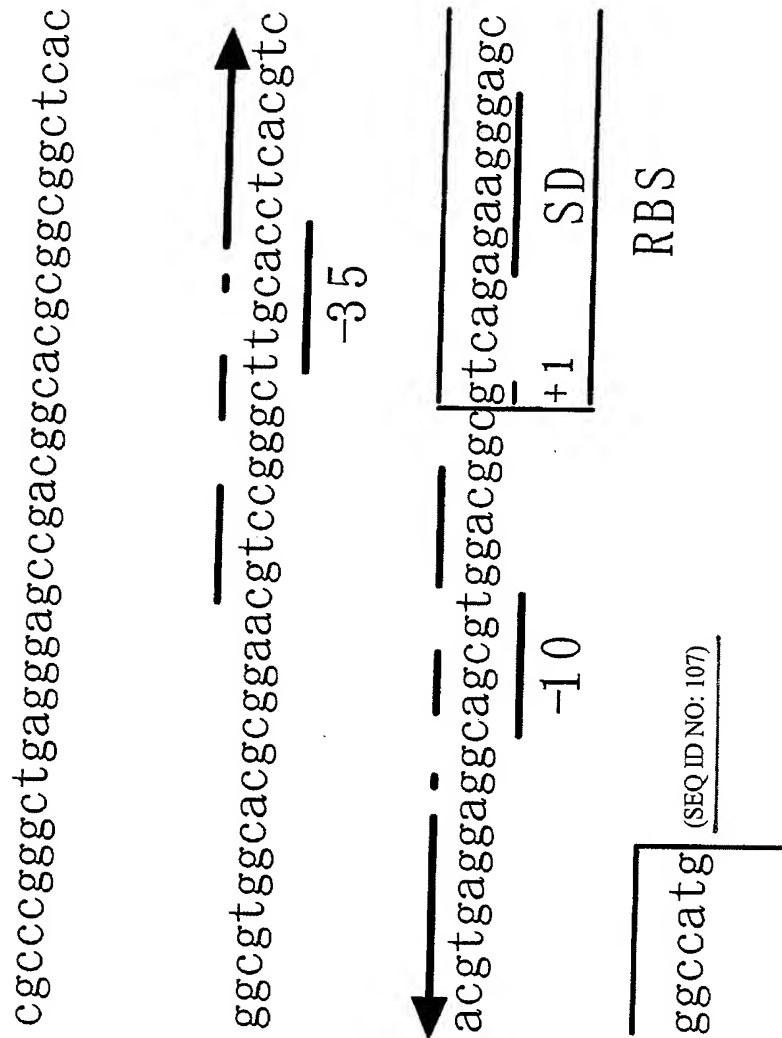


Fig. 13

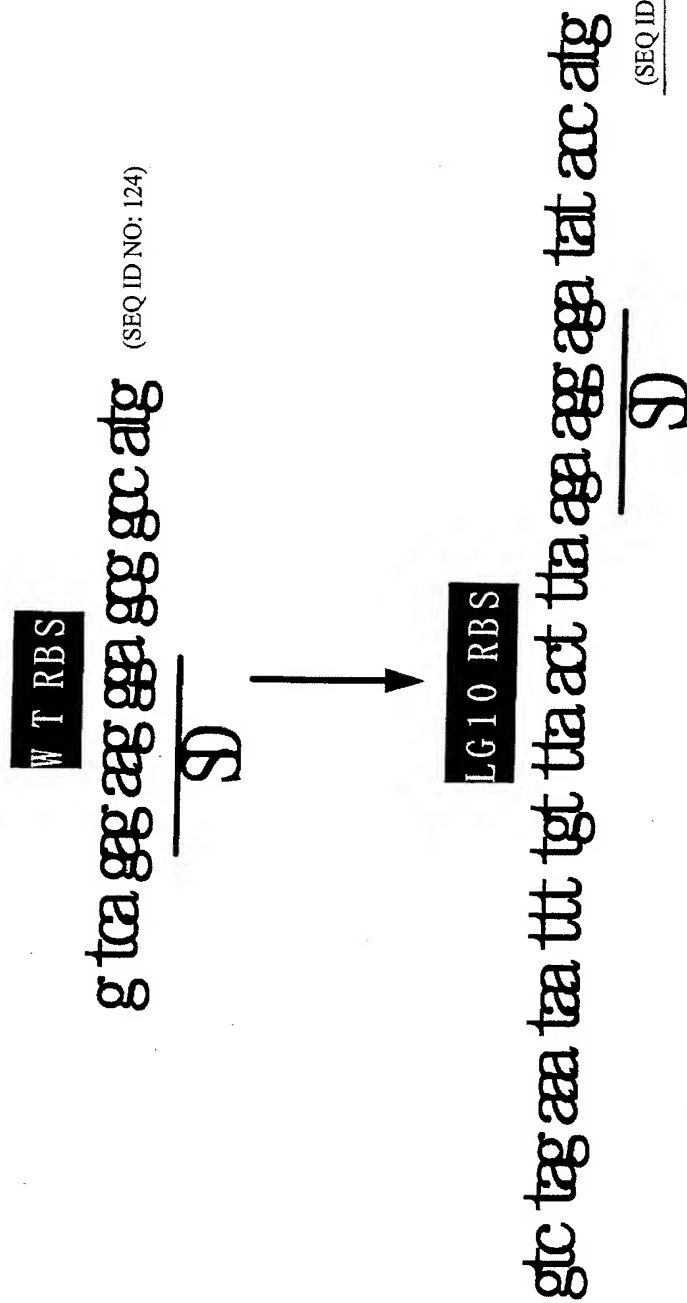


Fig. 15

	Motif IV	Motif I	Motif II	Motif III
Consensus	GLXXCGGXWCPXC	Xvt XTXRH	g XXg XXr a Xe Xt Xg XXn GwHXHx XI X	I a YXXXXXqX
pRE8424	68 GLRSCKKGW CPCC(126) 26 MVTMVRH(127)	33 GDGYVRAVEI THGK-NGWHVVHVALL	(128) 53 LAATLTKI AS	(129)
pAP1	138 GLHTCS VWACPVC(131) 27 MLTLQRH(132)	33 CLVGVRANEI THGK-HGWVSHVL I	(133) 67 I GNVS KMQT	(134)
pBL1	76 MFVGIVRH(136) 34 VEHYSDYEVIDS WA-	NGWLHRNML L	(137) 54 MATYLAKGV S	(138)
pJV1	38 GLVRCGR I WQPEC(140) 27 LVFTARH(141)	77 GXI GWMAAEVTRSKKNGVPHNL L	V(142) 80 LI HYLTKNQD	(143)
pIJ101	20 GLMRCCR I WLCPVC(145) 27 LVFTARH(146)	59 GVYGVM RATEVTVGQ I NGWPHI HAI	V(147) 69 LAEMI AKTQD	(148)
pSNZ2	20 GLMRCCR I WLCPVC(150) 27 LVFTARH(151)	59 GVYGVM RATEVTVGQ I NGWPHI HAI	V(152) 69 LAEMI AKTQD	(153)
** ** *	* * * *	: . : . . . . . :	* : * * : . : . :	*
C-terminal motif				
Consensus	WYeY EXa XXgr Rai XWxr gl r			
pRE8424	276 WREFEFGSMRRAL AWSRGL R	(130)		
pAP1	365 WEYEKASFRRALTWSKL R	(135)		
pBL1	250 WREYEVGSKNL RS - SWSRGAK	(139)		
pJV1	352 WAQEELACRRAL EWIRGL R	(144)		
pIJ101	288 WHEYERATRERRAL EWRYYLR	(149)		
pSNZ2	288 WHEYERATKRERRAL EWRYYLR	(154)		
	* : : * . * * : *	:	.	:

Numbers in parentheses indicate SEQ ID NOs.

Fig. 16

pRE8424	5705	CGATGCGAGCG-CA-CCCCCT-AGGTGGGGAG-	(SEQ ID NO: 155)
pAP1	2378	CACCTTATGC-C-CA-AAACCTT-AGCAACAA-	(SEQ ID NO: 156)
pBL1	1314	GGAATACAA-CAGA-ACACCTCTAAGCACCACA-	(SEQ ID NO: 157)
pJVI	3375	CTGCAAAACCGA-CCCCCT-AGCTAAAGGGTT	(SEQ ID NO: 158)
pIJ101	1346	GACCAAAACCGA-ACACCTT-CCCAAGAAA-	(SEQ ID NO: 159)
pSN22	7805	GACCAAAACCGCTCTCCCGCTT-CCCAAGAAA-	(SEQ ID NO: 160)

Nicking site

DSO

Fig. 17

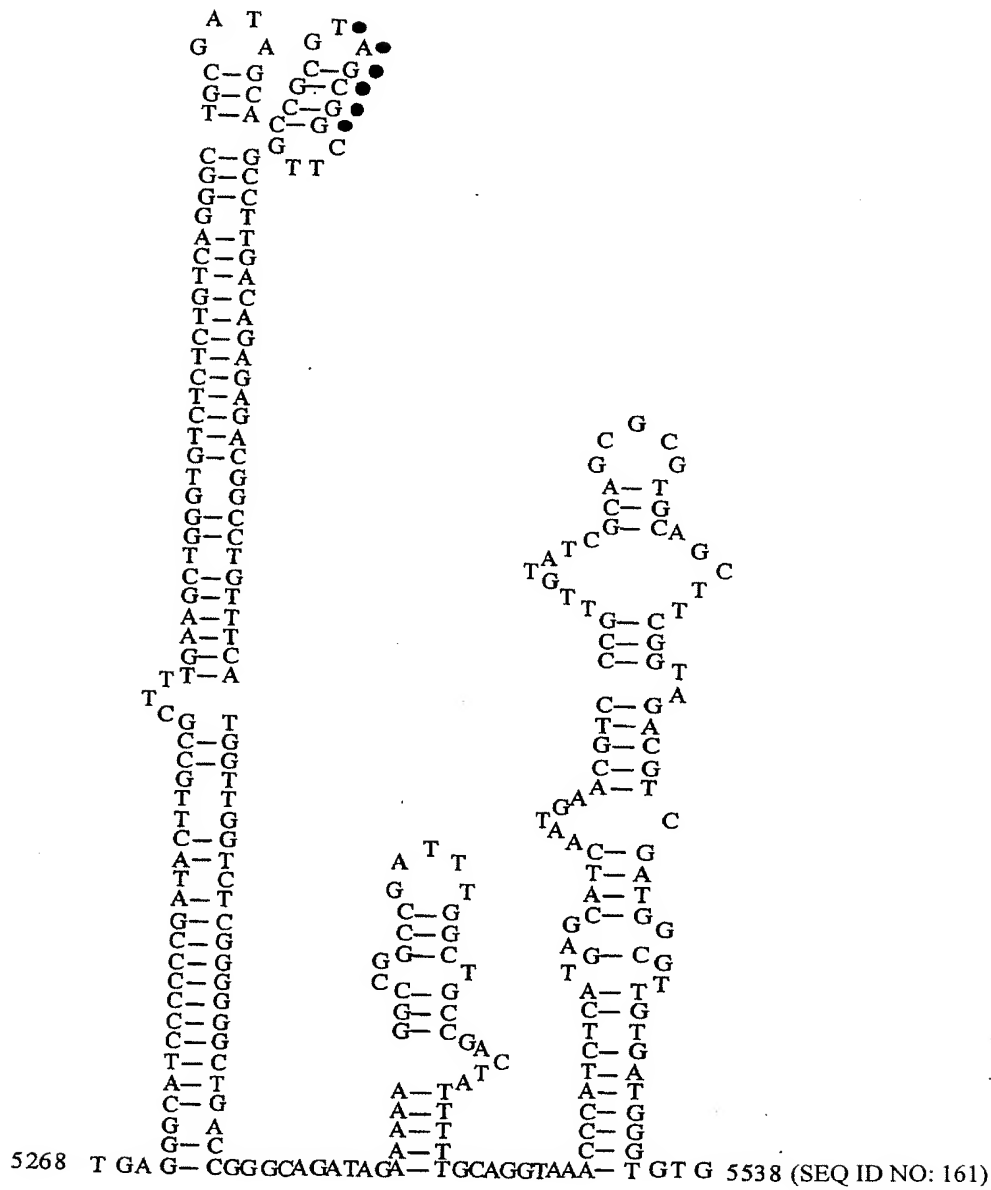
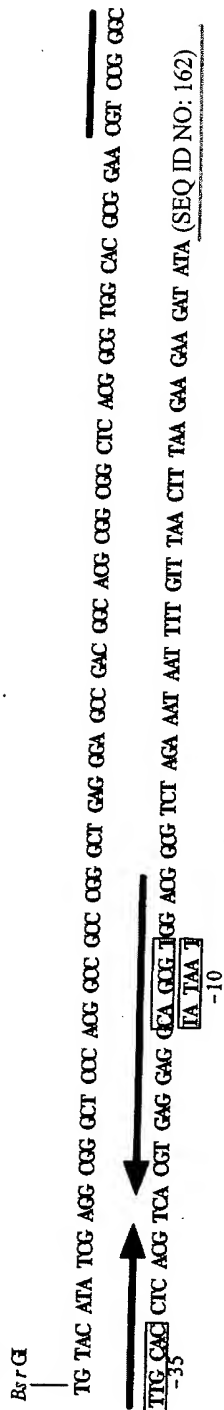


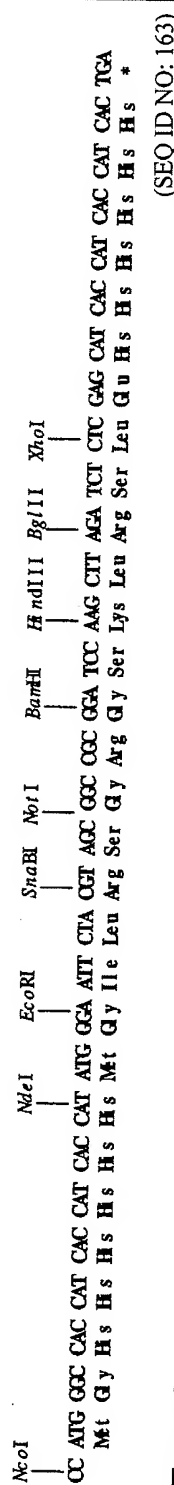
Fig. 19

*Ti p A-LGI0p* or *Ni t-LGI0p*

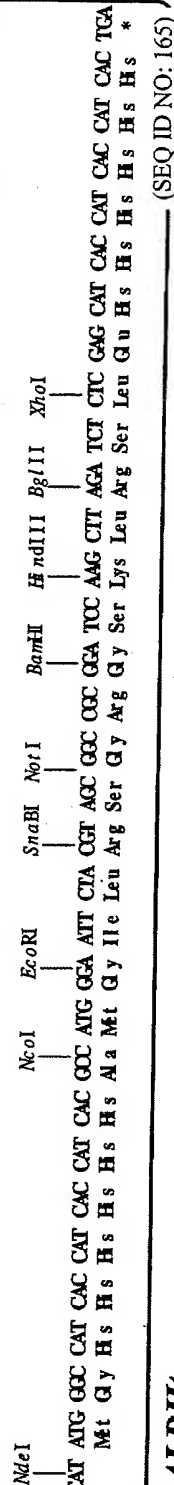


MCS

Type 1



Type 2



ALDHt

